

DEPARTMENT OF CALIFORNIA HIGHWAY PATROL

INITIAL STATEMENT OF REASONS

TITLE 13, CALIFORNIA CODE OF REGULATIONS, DIVISION 2, CHAPTER 6.5
AMEND ARTICLE 5, SECTION 1226

LEAVING DRIVER'S COMPARTMENT (CHP-R-06-19)

PURPOSE OF REGULATORY ACTION

Title 13, California Code of Regulations (13 CCR), Section 1226, sets forth specific operational requirements whenever a driver leaves the driver's compartment of a school bus. When a pupil is aboard a school bus, the driver may not leave the driver's compartment without first stopping the engine, effectively setting the parking brake, placing the transmission in first or reverse gear or park position, and removing the ignition keys, which must remain in the driver's possession. On vehicles with automatic transmissions which do not have a park position, the transmission must be placed in neutral. The California Highway Patrol (CHP) proposes to amend 13 CCR 1226.

Federal and state laws require school operators to serve students with disabilities in the least restrictive environment (LRE). This means students with disabilities, to the maximum extent appropriate, are to be educated with their peers who are not disabled. This principle also applies to transportation services. As a student's needs dictate, accommodations in service can be made in the LRE; i.e., a specialized school bus equipped with air conditioning, tinted windows and a white painted roof to help provide a cooler environment within the bus in hot weather conditions.

There are two principal federal statutes mandating school districts to provide transportation services for students with disabilities: The Individuals with Disabilities Education Act (IDEA) of 1975 and the Rehabilitation Act of 1973, Section 504. The IDEA amended in 1997, describes 13 disabilities that make a student eligible for special education and related services. IDEA requires school districts to provide a free and appropriate public education for all students with disabilities. As defined by IDEA, free and appropriate public education includes "related services" identified as necessary for the student to access the educational program. The term related services means transportation and such developmental, corrective, and other supportive services as necessary to assist a child with a disability to benefit from special education.

IDEA defines transportation to include: (1) travel to and from school and between schools; (2) travel in and around school buildings; and (3) specialized equipment such as special or adapted buses, lifts, and ramps, if required, to provide special transportation for a child with a disability.

Section 504 of the Rehabilitation Act prohibits discrimination against individuals with disabilities by any recipient of federal funding. It stipulates districts providing transportation for non-disabled students must do so for students with disabilities. The law requires districts to make reasonable accommodations for students with long-term or temporarily disabling conditions. One such accommodation is transportation.

In order to meet the needs of these students, several school transportation providers have requested exemptions from the requirements of 13 CCR 1226 to allow the driver to leave the driver's compartment and leave the engine running for the sole purpose of providing a degree of climate control for special needs students.

The intent of the proposed regulations is to adopt specific requirements for an alternate method of compliance that would not compromise the intended safety requirements contained in 13 CCR 1226.

This proposal would permit a driver to leave the driver's compartment of a school bus provided the bus is equipped with a master interlock key-type switch to engage and disengage the interlock function and designed so that the interlock key can be removed by the driver when the interlock is engaged. The driver's seat belt would have to be equipped with a continuous warning device audible to the driver when the driver's seat belt is released and the master interlock key-type switch is in the disengaged (interlock released) position.

The CHP is making this proposal in response to industry requests. Adopting this alternate method of compliance will allow school transportation providers to address the needs of students in the least restrictive environment.

SECTION BY SECTION OVERVIEW

§1226. Leaving Driver's Compartment.

This proposed rulemaking action will make the following substantive and non-substantive changes:

Subsection (b) Alternative Method of Compliance: This section is added to allow an alternate method of compliance should the school transportation provider need to leave the engine running to provide a certain degree of climate-control for special needs students. Many school buses are equipped with air conditioning and additional heating systems specifically for special needs students.

Subsection (b)(1) Additional Requirements: This proposal sets forth additional detailed interlock requirements for both wheelchair equipped and non-wheelchair equipped school buses.

Subsection (b)(1)(A): This proposal requires the school bus to be equipped with a master interlock control key-type switch to engage and disengage the interlock system which must also function so that the key can be removed by the driver when the interlock system is engaged. This proposed subsection is intended to ensure there is one master switch designed to interlock

the brakes and transmission prior to the driver leaving the driver's compartment. The requirement for the interlock key to be removed by the driver when the interlock system is engaged prevents any unauthorized person from disengaging the interlock controls when the driver is away from the driver's compartment.

Subsection (b)(1)(B): This proposal requires the driver's seat belt to be equipped with a continuous warning device which is audible to the driver when the driver's seat belt is released and the master interlock key-type switch is in the disengaged (interlock system released) position. This subsection is intended to alert the driver when the interlocks are in the disengaged (interlock released) position so the driver does not leave the driver's compartment without setting the master interlock switch to the engaged (interlocked applied) position.

Subsection (b)(1)(C)1: This subsection is proposed to codify that the door warning device required by Section 1281.1 need not sound when the interlock system is engaged and the wheelchair loading door is open.

Subsection (b)(2) Driver Requirements: This proposal sets forth specific requirements that apply to the school bus driver.

Subsection (b)(2)(A): This proposal requires the driver to set the vehicle's parking brake and place the transmission in the "Park" or "Neutral" position.

Subsection (b)(2)(B): This proposal codifies that a transmission not having a "Park" position must be interlocked in the "Neutral" position.

Subsection (b)(2)(C): This proposal requires the driver to engage the interlock switch and remove the interlock key which must remain in the driver's possession when leaving the driver's compartment.

Subsection (b)(2)(C)1: This proposal codifies that the driver may load, unload, secure or release pupils in wheelchairs once they meet the requirements of 1 through 4.

Subsection (b)(2)(C)2: This proposal requires the driver to remain within a 10-second reach of the driving controls whenever loading or unloading pupils in wheelchairs. The California Department of Education, Office of School Transportation and several school transportation providers suggested that the driver should not move away from the school bus to such a distance that the driver could not return to the driving controls within 10 seconds, in an emergency, while the engine is running. In the unlikely event that there is an emergency situation inside the school bus, the driver would be able to respond within a reasonable period of time to deal with the emergency.

Subsection (b)(2)(B)3: This proposal requires the driver to remain within a 10-second reach of the driving controls whenever loading or unloading pupils not in wheelchairs. The California Department of Education, Office of School Transportation and several school transportation providers suggested that the driver should not move away from the school bus to such a distance

that the driver could not return to the driving controls within 10 seconds, in an emergency, while the engine is running. In the unlikely event that there is an emergency situation inside the school bus, the driver would be able to respond within a reasonable period of time to deal with the emergency.

Subsection (b)(2)(B)4: This proposal requires the driver to test the operation of the interlock each day prior to transporting pupils and to report in writing as to its condition, pursuant to Section 1215.

Subsection (c) Motor Carrier Requirements: This proposal requires the motor carrier to ensure their drivers receive detailed written and verbal instruction on the proposed sequence of events relating to the operation of the interlock device prior to using a school bus equipped with an interlock device. Carriers shall also ensure drivers sign a copy of the written instructions and maintain a copy in the drivers files. This subsection also requires the motor carrier to ensure the driver is proficient with the interlock functions and driver's responsibilities, as required by this section.

STUDIES/RELATED FACTS

The following documents lend support or are otherwise related to this proposed rulemaking. Copies of these documents, or relevant portions thereof, can be obtained from the CHP by telephone at our Commercial Vehicle Section at (916) 445-1865, 1-800-735-2929 (TT/TDD), 1-800-735-2922 (Voice), via Facsimile at (916) 446-4579, or by e-mail; mchaffee@chp.ca.gov. Please note: All requested materials will be sent via United States mail.

- California Vehicle Code, Sections 34500, 34501.5 and 34508.
- California Education Code, Section 39831.
- Title 13, California Code of Regulations, Sections 1226 and 1240.
- Title 49, Code of Federal Regulations, Parts 37 and 38.
- Title 49, Code of Federal Regulations, Parts 571.403 and 571.404.

Section 34501.5 of the California Vehicle Code (VC) requires the CHP to adopt reasonable rules and regulations which, in the judgment of the Department, are designed to promote the safe operation of vehicles described in Sections 39830 and 82321 of the Education Code and Sections 545 and 34500 VC. Additionally, the Commissioner of the CHP must appoint a committee of 11 members to act in an advisory capacity when developing and adopting regulations affecting school pupil transportation buses and school transportation operations. A copy of the draft

proposed regulatory action was mailed to each member of the committee for their comments to this proposal and is included in the Regulatory File.

LOCAL MANDATE

These regulations do not impose any new mandate on local agencies or school districts.

IMPACT ON BUSINESSES

The CHP has not identified any significant adverse impact on businesses since these changes either maintain reasonable exceptions for carriers not directly subject to federal jurisdiction (to minimize the impact on business) or they simply adopt federal regulations, as they now exist and are hereafter amended, that already apply to the majority of the regulated community; thereby, eliminating a conflict between state and federal regulations.

ALTERNATIVES

The CHP has determined that no reasonable alternative identified by the CHP, or that has otherwise been brought to the attention of the CHP, would be more effective in carrying out the purpose for which the action is proposed or would be as effective as and less burdensome to affected private persons than the proposed action.

Alternatives Identified and Rejected

Alternative 1: Do nothing and allow outdated methods of compliance to remain in 13 CCR:

This alternative was not selected because the continued use of outdated methods of compliance would defeat the purpose of providing alternate methods of compliance without any degradation of safety. Failure to allow an alternate method of compliance may result in:

- Violation of federal and state laws that require schools to serve students with disabilities in the Least Restrictive Environment; and
- Contributing to deny children with special needs the utmost care when transporting them to and from school and school-related activities.

Alternative 2: Amend 13 CCR to address the needs of the school transportation providers when transporting special needs students. This is the alternative selected as it best meets the needs of many school transportation providers, the special needs students and the Department.

Performance vs. Prescriptive Standards

Due to the nature of the equipment (wheelchair interlock systems, brakes, etc.) and the standards (driver requirement, motor carrier requirements, etc.) to which this alternate method of

compliance will be applied, it is necessary to apply prescriptive standards. Equipment standards are critical in school buses and must be closely adhered to in order to ensure the proper functioning of the equipment. Small deviations in critical component dimensions could mean the difference between an item of equipment that is working properly and an item of the interlock system that fails completely. Non-equipment related standards are also prescriptive and critical. In order to properly and safely operate a vehicle, a driver must demonstrate an ability to operate and understand the interlock system and the wheelchair lift operation.

ECONOMIC IMPACT

The CHP has determined these regulatory amendments will result in:

- No increased costs for owners or operators of school buses. This rulemaking action will simply provide an alternate method of compliance when chosen by a school transportation provider;
- No compliance cost for persons or businesses directly affected;
- No discernible adverse impact on the quantity and distribution of goods and services to large and small businesses or the public;
- No impact on the level of employment in the state; and
- No impact on the competitiveness of this state to retain businesses since most schools throughout North America do not have rules or regulations governing a driver that leaves the driver's compartment of a school bus.